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United States Department of Agriculture

AGRICULTURAL MARKETING SERVICE

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 137¹

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE AND INSTRUCTIONS OF THE CHIEF OF AGRICULTURAL MARKETING SERVICE GOVERNING SAMPLING, GRADING, GRADE LABELING, AND SUPERVISION OF PACKAGING OF BUTTER, CHEESE, EGGS, POULTRY, AND DRESSED DOMESTIC RABBITS

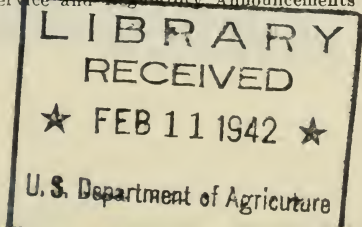
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RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE

DEFINITIONS

55.1 Meaning of words.—Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

55.2 Terms defined.—For the purpose of the regulations in this part, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *The Act.*—The following provisions of an act of Congress entitled “An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1942, and for other purposes,” approved July 1, 1941 (Public, No. 144—77th Cong.) or any future act of Congress conferring like authority:

For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, other associations of businessmen or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(b) *Secretary.*—Secretary of Agriculture of the United States.

(c) *Chief of Service.*—The Chief or Acting Chief of the Agricultural Marketing Service.

(d) *Person.*—Individual, association, partnership, or corporation.

(e) *Official sampler.*—Employee of the Department of Agriculture or other person authorized by the Secretary to take official samples of products for grading by an official grader under the act.

(f) *Official grader.*—Employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the class, quality, and condition of products under the act.

(g) *Official supervisor of packaging.*—Employee of the Department of Agriculture or other person authorized by the Secretary to supervise the packaging or grade labeling of products officially graded under the act.

(h) *Products.*—Butter, cheese, eggs, poultry, dressed domestic rabbits, and other dairy and poultry products designated by the Chief of Service.

(i) *Office of grading.*—The office of an official grader authorized to grade products under the act.

(j) *Sampling certificate*.—Certificate of official samples of products sampled by an official sampler under the act.

(k) *Grading certificate*.—Certificate of the class, quality, or condition of products issued by an official grader under the act.

(l) *Certificate of packaging*.—Certificate of packaging of products officially graded and labeled with their proper U. S. Grade under the act.

(m) *Regulations*.—Rules and regulations of the Secretary under the act.

ADMINISTRATION

55.3 Authority.—The Chief of Service is charged with the administration of the provisions of the act and these regulations in this part and is authorized to issue such instructions as he may deem proper and necessary for the conduct of the service.

WHERE SERVICE IS RENDERED

55.4 Sampling and grading; where rendered.—Products may be sampled and graded for the purposes of the act at shipping points, terminal markets, and other places whenever an official sampler or official grader is available.

(a) *Designated markets.*—The following are hereby designated as important central markets at which products may be sampled and graded under the act:

Boston.	Philadelphia.	Seattle.
Chicago.	Portland, Oreg.	Washington.
Los Angeles.	St. Louis.	
New York.	San Francisco.	

Sampling and grading may also be conducted at other points approved by the Chief of Service.

55.5 Supervision of packaging and grade labeling.—Products may be supervised for packaging and grade labeling at points where the products are sampled or graded and at all points where an official supervisor of packaging is available.

SAMPLING AND GRADING SERVICES

55.6 Kind of grading.—Grading may be made for class, quality, or condition.

55.7 Who may obtain sampling and grading.—Application for sampling or grading may be made by any financially interested person or his authorized agent including Federal, State, county, and municipal governments and common carriers.

55.8 How sampling and grading may be obtained.—Application for sampling and grading may be made orally, in writing, by telegraph, telephone, or otherwise. Application for sampling may be filed with an official sampler. Application for grading may be filed in the office of grading or with any authorized grader at or nearest the place where the grading is desired. If made orally the official sampler or grader may require that the application be confirmed in writing.

55.9 Form of application.—An application for sampling or grading a specified lot of product, when required by the sampler or grader, shall include the following information, or such part of it as may be applicable, as the official sampler or grader may require: (a) The date of application; (b) the identification and location of the product to be sampled or graded; (c) the name and post-office address of the applicant and of the person, if any, making the application in his behalf; (d) the interest of the applicant in the product; (e) the name, post-office address, and interest of other parties, except carriers, in the product involved; (f) the shipping point and destination of the product; (g) the purpose of the sampling or grading; and (h) such other information as may be necessary for proper identification of the product or as may be required by the official sampler or grader or the Chief of Service. Applications for contract sampling, grading, and supervision of packaging services may be in such form and contain such provisions as the Chief of Service approves.

55.10 Filing of application.—An application for sampling or grading a specified lot of product shall be regarded as filed only when received by an officer or in a proper office of the Agricultural Marketing Service.

55.11 When application may be rejected.—An application may be rejected by the official sampler or official grader in charge of the office of the Agricultural

Marketing Service in which it is filed, for noncompliance with the act or any regulation thereunder, and the official sampler or grader shall immediately notify the applicant of the reasons for such rejection.

55.12 When application may be withdrawn.—An application may be withdrawn by the applicant at any time before the service is performed, upon payment of any expenses incurred by the service in connection with the application.

55.13 Authority of agent.—Proof of the authority of any person applying for sampling or grading on behalf of another may be required in the discretion of the official sampler or grader.

55.14 Accessibility and condition of products.—The applicant shall make the products for which sampling or grading is requested accessible for sampling or grading and to be so placed as to disclose their quality and condition. Samples of the products drawn for examination shall be graded only under such conditions as will permit a true and correct determination to be made of their class, quality, or condition.

55.15 Disposition of samples.—Samples that have been graded may be returned to the applicant at his expense or disposed of in such manner as the Chief of Service may approve.

55.16 Basis of service.—Grading for class, quality, or condition shall be based upon official or tentative standards of the United States Department of Agriculture or such other standards or specifications as may be approved by the Chief of Service or are adopted by the Federal Specifications Board, and the sampling and grading of products and supervision of packaging and grade labeling shall be in accordance with instructions of the Chief of Service.

55.17 Order of sampling and grading.—Sampling and grading of products shall be conducted as far as practicable in the order in which applications are received, except that precedence may be given to applications made by a branch of the Federal Government, or by a State, or a municipality.

55.18 Certificate, form.—Sampling, grading, or packaging certificates shall be issued on forms approved by the Chief of Service.

55.19 Certificates, issuance.—A separate certificate shall be issued for each lot of product; except that when grading is made to determine compliance with contract specifications, compliance or noncompliance may be indicated by an official stamp or mark placed by the official grader on the product or container. The official supervisor of packaging shall sign and issue a certificate covering each and every lot of products packaged and grade labeled under his supervision.

55.20 Disposition of certificates.—The original certificate and one copy, if requested, shall be immediately sent to the applicant or his designated representative. One copy shall be filed in the issuing office and the other copies filed in such manner as the Chief of Service may approve. Additional copies of certificates of grading will be supplied to financially interested persons as provided in section 55.41.

55.21 Advance information.—Upon request of an applicant all or any part of the contents of the certificate of grading may be telegraphed or telephoned to him at his expense.

APPEAL GRADING

55.22 When appeal may be requested.—An application for appeal grading may be made whenever any financially interested party is dissatisfied with the findings in the original or regrading certificate; provided the application is made within 24 hours following the hour of the original grading and the identity of the samples or products has not been lost, except that in the event of unusual conditions, the 24-hour period may be extended.

55.23 How to obtain appeal grading.—Appeal grading may be obtained by filing a request with (a) any official sampler or any official grader, (b) a supervising official grader, or (c) the Chief of Service. The application shall state reasons and should be accompanied by a copy of any previous grading certificate, or any other information regarding the product at the time of the original grading. Such application may be made orally, in writing, by telegraph, or telephone. If made orally, the official receiving the application may require that it be confirmed in writing.

55.24 Record of filing time.—A record showing the date and time of filing such application shall be made by the receiving office.

55.25 When appeal may be refused.—If it appears that the reasons for appeal grading are frivolous or not substantial, or that the quality or condition of the

products has undergone material change since the last grading, or the identical products cannot be made accessible for grading or the act or these regulations have not been complied with, the appeal may be refused and the applicant shall be promptly notified of the reason for such refusal, and a statement of such action shall be included in the record of such application.

55.26 When appeal may be withdrawn.—An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is done, upon payment of any expense incurred by the Agricultural Marketing Service in connection with the application.

55.27 New gradings or regradings.—Gradings requested to determine the class, quality, or condition of products which have been previously graded, shall be considered as regradings unless the applicant questions the correctness of the last previous certificate issued on the product. If the application for an appeal grading is refused or the personnel for the making of an appeal grading is not available, an application for a regrading may be made.

55.28 Order in which made.—Appeal grading shall be performed as far as practicable at the time requested by applicant and in the order in which applications are received.

55.29 Who shall pass upon appeals.—Applications for appeal grading shall be passed upon by official graders designated for the purpose by the Chief of Service, and such gradings shall be conducted jointly by two official graders when practicable. No official grader shall pass upon an application for appeal grading which involves the correctness of a certificate issued by him.

55.30 Appeal findings.—The official grader making an appeal grading shall sign and issue an appeal grading certificate, which shall supersede and refer specifically to the original grading certificate from which the appeal was taken, and state the quality or condition of products, as determined by the appeal grading. The provisions of sections 55.6 to 55.21, inclusive, shall apply to appeal grading certificates, except that copies of the appeal grading certificates shall be sent to known interested parties.

55.31 Superseded certificate.—When a grading certificate is superseded by an appeal grading certificate or a regrading certificate, the grading certificate shall become null and void and shall not thereafter represent the class, quality, or condition of the lot of described products. If the original and all copies of the superseded certificate are not delivered to the person receiving the application for regrading or appeal grading, the officer issuing the superseding certificate shall notify such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

LICENSED OFFICIAL SAMPLERS, GRADERS, AND SUPERVISORS OF PACKAGING

55.32 Who may be licensed.—Persons showing proper qualifications may be licensed by the Secretary as official samplers, official graders, or as official supervisors of packaging. All licenses shall be countersigned by the Officer in Charge of the Dairy and Poultry Division in the Agricultural Marketing Service, the Specialist in grading in that division, or by the Supervising Grader under whose direction a licensee is to work; and unless the licensee is a Federal or State employee, as a condition to the granting of the license, he shall procure at his own expense and deliver to the Agricultural Marketing Service, United States Department of Agriculture a surety bond in the amount of \$1,000 as surety for the proper performance of duty as a licensee under the act.

55.33 Limited license may be issued.—Persons showing proper qualifications may be issued limited licenses by the Secretary to candle or grade eggs that are purchased from producers on the basis of the official U. S. standards for eggs or that are to be delivered on contracts to a municipality, State, or branch of the Federal Government or that are to be packaged with certificates of quality or grade labels authorized by these regulations in this part: *Provided, however,* That limited licensed graders shall not have authority to issue grading certificates, and eggs graded by them shall be subject to check grading by an official grader. All licenses shall be countersigned by the Officer in Charge of Dairy and Poultry Division in the Agricultural Marketing Service, the Specialist in grading in that division or by the Supervising Grader under whose direction a licensee is to work.

55.34 Suspension of license.—Any license may be suspended, pending final action by the Secretary, by the Chief of Service, or by an official authorized

to countersign the license whenever such official considers such action to be for the good of the service. Within seven days after suspension, the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer. If the license should be revoked by the Secretary, it shall immediately be surrendered to the supervising official.

FEES AND CHARGES

55.35 Basis for charges.—Fees and charges for sampling, grading, regrading, and supervising of packaging, grade labeling or other work shall be based upon the actual time required to render the service, including the time required for travel of the official sampler, grader, or supervisor of packaging between his office or point of previous duty and the place of service, at the rate of \$1.00 per hour for each official sampler or official supervisor of packaging and \$2.00 per hour for each official grader, or at the rate specified in sections 55.36 to 55.40 inclusive, unless otherwise provided by contract with the applicant or by supplemental schedules approved by the Chief of Service. An additional fee of \$3.00 shall be charged when the sampling or grading is made in a freight or express car or other place where the entire lot of product is not readily accessible to the official sampler or official grader.

55.36 Butter and cheese grading fees.—For each lot of butter or cheese graded or regraded for class, quality, or condition, pursuant to the regulations in this part, the fee shall be on the basis of approximate net weight or on the number of churnings or vats of butter or cheese in such lots, as follows:

(a) When each separate churning or vat is not indicated by number or otherwise on the packages—

For 500 pounds or less.....	\$1. 00
For 501 pounds to 1,500 pounds, inclusive.....	1. 50
For 1,501 pounds to 3,000 pounds, inclusive.....	2. 25
For 3,001 pounds to 6,000 pounds, inclusive.....	3. 00
For 6,001 pounds to 10,000 pounds, inclusive.....	3. 75
For each additional 10,000 pounds or fraction thereof beyond 10,000 pounds an additional charge of.....	. 75

(b) When each separate churning or vat is indicated by number or otherwise on the packages—

For 5 or less churnings or vats.....	\$1. 50
For each additional churning or vat beyond 5 an additional charge of.....	. 20
For a lot of 18,000 pounds or more the minimum charge shall be.....	4. 00

55.37 Egg grading and inspection fees.—For each lot of eggs graded or regraded for class, quality, or condition, or inspected for condition, pursuant to the regulations in this part, the fees shall be based on the gross number of packages in each lot, as follows:

(a) For shell eggs:

For 2 packages or less.....	\$0. 50
For 3 to 15 packages, inclusive.....	1. 00
For 16 to 25 packages, inclusive.....	1. 50
For 26 to 50 packages, inclusive.....	2. 25
For 51 to 100 packages, inclusive.....	3. 00
For 101 to 200 packages, inclusive.....	4. 00
For 201 to 350 packages, inclusive.....	5. 00
For 351 to 550 packages, inclusive.....	6. 00
For additional 100 packages or fraction thereof an additional charge of.....	1. 00

(b) For frozen eggs: (1) When the warehouse in which the eggs are located is within reasonably easy access from the office of inspection and assistance is furnished in opening and closing cans and making the samples ready for examination—

For 50 cans or less.....	\$2. 50
For each additional 50 cans or fraction thereof an additional charge of.....	. 25

(2) When the warehouse at which the eggs are located is not within reasonably easy access from the office of inspection or when assistance is not furnished in opening and closing cans and making the samples ready for examination, charges in addition to those specified in (1) may be made to cover the additional time spent in traveling to and from the warehouse and in preparing the samples for examination, at the rate of \$2.00 per hour.

55.38 Dressed poultry and dressed domestic rabbits grading fees.—For each lot of dressed poultry or dressed domestic rabbits graded or regraded for class,

quality, and condition, the fee shall be on the basis of the approximate net weight of the lot, as follows:

For 50 pounds or less.....	\$0. 50
For 51 pounds to 500 pounds, inclusive.....	1. 00
For 501 pounds to 1,500 pounds, inclusive.....	1. 50
For 1,501 pounds to 3,000 pounds, inclusive.....	2. 00
For 3,001 pounds to 10,000 pounds, inclusive.....	4. 00
For 10,001 pounds to 20,000 pounds, inclusive.....	6. 00
For 20,001 pounds to 30,000 pounds, inclusive.....	8. 00

55.39 Fees for grading official samples.—For each lot of official samples of butter, cheese, eggs, dressed poultry, dressed domestic rabbits, or other dairy and poultry products graded, the fee may be based on the actual time required at the rate of \$2.00 per hour with a minimum charge of \$1.00 for any lot.

55.40 Fees for appeal grading.—Fees for appeal gradings shall be double those for original gradings, except that no fee shall be charged when it is found that there was a material error in the certificate from which the appeal was taken. Appeal gradings for Government agencies shall be at actual cost.

55.41 Fees for copies of grading certificates.—Copies of certificates of grading other than those provided in section 55.20 may be supplied to financially interested persons upon payment of a fee of \$1.00 for each set of four or a smaller number of copies of a grading certificate.

55.42 Fees under cooperative agreements.—Fees charged for sampling, grading, labeling, or other work conducted under a cooperative agreement shall be those provided for by the agreement.

55.43 Traveling expenses, etc.—Charges may be made to cover the cost of traveling and other expenses incurred in connection with the sampling, grading, appeal grading, supervising of packaging or grade labeling of products.

55.44 How fees shall be paid.—Fees and other charges shall be paid by the applicant in accordance with the direction on the fee bill, or in advance when required by the official sampler, grader, or supervisor of packaging.

55.45 Disposition of fees.—Fees covered by sections 55.35 to 55.44 shall be disposed of as follows:

(a) Fees payable for work performed by an official sampler, grader, or supervisor of packaging, acting exclusively for the Agricultural Marketing Service, shall be remitted promptly to the Service.

(b) Fees payable to a licensed sampler, grader or supervisor of packaging acting exclusively for the Agricultural Marketing Service, less the percentage allowed him by the terms of his contract shall be remitted to the Agricultural Marketing Service.

(c) Fees for sampling, grading, supervision of packaging or grade labeling of products or other work conducted under a cooperative agreement with a State or other organization or agency shall be disposed of in accordance with the terms of the agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be promptly remitted to the Service.

(d) Remittances made to the Agricultural Marketing Service shall be by check, post-office draft, or money order made payable to the "Treasurer, United States."

CERTIFICATES OF QUALITY AND GRADE LABELS

55.46 Grade labeling of products.—An official sampler, grader, or supervisor of packaging may stamp, tag, or label or supervise the stamping, tagging, or labeling of each unit or package of product in any lot of officially graded product with the class, quality, or grade, determined by an official grader. The stamps, tags, labels, packing materials, or grade marks used for such purpose shall have the approval of the Chief of Service or an officially designated officer and shall indicate that the product has been officially graded or Federal-State graded, and shall state the class, quality, or grade of the product, and when required by these regulations shall also state the date of grading and the number of the grading certificate issued on the product. Eggs shall not be packaged with certificates of quality or grade labels unless they have been candled and graded by limited licensed graders and check graded by official graders or candled and graded by official graders.

The use by any person of a facsimile form which simulates in whole or in part an authorized or approved form of a certificate of quality, grade label, grade tag, or other official grade mark for the purpose of purporting to evidence

the U. S. grade of a product; or the use of the words "Government graded," "officially graded," "Federal-State graded," or other words of a similar import in the labeling or advertising of a product without stating in conjunction therewith the official U. S. grade of the product; or the use of these words or an official grade mark in the labeling or advertising of a product that has not been officially graded, except when used to comply with a State law or a State or municipal regulation, may be deemed sufficient cause for debarment from any further benefits of the act the person found guilty thereof, after opportunity for hearing has been accorded him, and pending investigation and hearing the Chief of Service may without hearing direct that such person shall be denied the benefits of the act.

55.47 Authorized use and form of certificates of quality.—An applicant for grading, or a distributor of butter, cheese, or eggs, whose products have been graded by an official grader, may use certificates of quality of substantially the following forms:

(a) For butter and cheese.

CERTIFICATE OF QUALITY ISSUED BY AUTHORITY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

This is to certify that the butter (or cheese) in this package was graded by an official grader, and that the date of grading and number of the grading certificate issued are stamped or perforated hereon and that the quality at time of grading was: U. S. 93 score (or U. S. 92 score).

Packed by (or distributed by)

(Name of firm or applicant)

(Address)

(b) For eggs.

CERTIFICATE OF QUALITY ISSUED BY AUTHORITY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

This is to certify that the eggs in this package were graded by an official grader, and that the date of grading and number of the grading certificate issued are stamped hereon and that the quality at time of grading was U. S. Specials—Retail Grade AA—Large (or Medium), (or U. S. Extras—Retail Grade A—Large) (or Medium or Small).

Packed by (or distributed by)

(Name of firm or applicant)

(Address)

55.48 Use of certificates of quality limited to products of high quality.—Authorization to use certificates of quality shall be limited to butter that is officially graded not lower than U. S. 92 score, to cheese that is officially graded not lower than U. S. 92 score, and to eggs that are officially graded not lower than U. S. Extras, Retail Grade A. The certificate of quality may be used as an insert in packages of butter and cheese or may be printed on the wrapper.

55.49 Authorized use and form of grade labels for eggs.—An applicant for grading or a distributor of eggs graded by an official grader, when the official U. S. grade of the eggs is U. S. Standards (Retail Grade B), or U. S. Trades (Retail Grade C), may be authorized to use grade labels of substantially the following form, the words "Retail Grade B" or "Retail Grade C" being required on each grade label:

(a)

U. S. Government
Graded and Dated
U. S. Standards—Large (or Medium or Small)
Retail Grade B, When Graded
Date and Certificate Number
Packed by (or Distributed by)

(Name of firm or applicant)

(Address)

(b)

U. S. Government
Graded and Dated
U. S. Trades—Large (or Medium or Small)
Retail Grade C. When Graded
Date and Certificate Number
Packed by (or Distributed by)

(Name of firm or applicant)

(Address)

55.50 Information required on certificates of quality, grade labels, and approved seals and how they may be used.—When butter and cheese are packaged under certificates of quality, the date of grading and the number of the grading certificate issued on the product shall be stamped or perforated on the certificate of quality, wrapper, or carton and may be in code, provided proper explanation thereof is made on the certificate of quality. When eggs are packaged under certificates of quality or grade labels, the date of grading and number of the grading certificate must be stamped on the certificate of quality or grade label unless approval is given to the placing of this information and the grade and size of the eggs on the carton or seal. The certificate of quality or grade label must be used to seal the carton in which the eggs are packed unless the carton is of a type that does not require a seal or an approved seal is used, which shows the date of U. S. grading and certificate number, in which event the certificate of quality or grade label may be printed on the carton. The name and address of the packer or distributor may be omitted from the certificate of quality or grade label used on eggs when his name and address is plainly and conspicuously stated on the carton.

55.51 Time limit for packaging products under certificates of quality or grade labels.—The time limit within which butter, cheese, and eggs may be packaged with certificates of quality or grade labels after official grading is as follows:

Butter and cheese-----	7 days
Eggs (in shell)-----	3 days

55.52 Authority to use certificates of quality and grade labels limited.—Authority to use certificates of quality or grade labels, as provided for in sections 55.46 to 55.52, shall be granted only to applicants for grading or to distributors of butter, cheese, or eggs, whose written application for the privilege is approved by the Chief of Service or officially designated officers.

55.53 Service of supervisor of packaging required; duties indicated.—Authority to use certificates of quality or grade labels, as provided for in sections 55.46 to 55.52, shall be granted only to applicants who provide for the printing and packaging of the butter and the packaging of the eggs with certificates of quality or grade labels to be done under the supervision of an official supervisor of packaging. The supervisor of packaging shall have custody of all supplies of packaging materials including all certificates of quality and grade labels used in the packaging of officially graded products in the plant in which he is employed or assigned for duty. He shall keep a complete and detailed record of all new supplies of such materials received and the supplies used in the packaging of the products and of the product packaged in such materials, and maintain such supervision and perform such duties in connection with the packaging and labeling of the products with certificates of quality or grade labels as may be required by the regulations in this part and such instructions as may be issued by the Chief of Service.

55.54 Keeping-quality cabinets for butter samples required.—Each applicant for the privilege of issuing certificates of quality or for the packaging of butter under certificates of quality shall, when required by the Chief of Service, provide and maintain a keeping-quality cabinet of suitable construction and condition in which samples of butter taken from lots officially graded and certified for packaging with certificates of quality may be kept for subsequent examination by an official grader to determine the keeping quality of the butter from which the samples were taken. Also suitable facilities for the proper cleaning and sterilization of equipment shall be provided.

55.55 Butter of known poor keeping quality shall not be certified for packaging with certificates of quality.—When it is known to the official grader that the butter tendered for grading and certification is the product of a creamery

producing butter of poor keeping quality as shown by the results of incubation tests made in a keeping-quality cabinet within 60 days prior thereto, he shall not certify the butter for packaging with certificates of quality until it is determined that butter subsequently manufactured by the creamery possessed satisfactory keeping quality, as set forth in specifications approved by the Chief of Service.

55.56 Packing and packaging room must be clean and sanitary.—Each applicant granted the privilege of issuing certificates of quality or grade labels or the privilege of packaging products under certificates of quality or grade labels who operates, for such purpose, a butter printing and packaging room or an egg candling, grading, and packaging room shall maintain the room in a clean and sanitary condition, and in all respects the room shall comply with specifications approved by the Chief of Service.

55.57 Cold-storage and commercially shell-cleaned eggs must be marked when packaged under certificates of quality.—Cold-storage eggs, and eggs which have been shell-cleaned commercially by use of sand or dry abrasive, and eggs which have been commercially washed or otherwise commercially shell-cleaned shall not be certified for packaging under certificates of quality unless the cartons in which they are packaged under certificates of quality are appropriately marked or labeled, with the words "cold-storage eggs" or "commercially shell-cleaned eggs" in type no smaller than 18 point, and unless the certificates of quality on the packages are marked with the same wording in type of the same size and prominence as the type used to state the U. S. grade of the eggs.

55.58 Certificates of quality, grade labels, and other devices for showing grade shall be used only for proper, ethical, and legal purposes.—The purpose of approved certificates of quality, grade labels, grade tags, and other grade marks on the packing materials or wrappers, or on the officially graded product is to evidence the fact that the product was graded by an official grader and that it was, at the time it was graded, of the quality stated by the certificate of quality, grade label, or grade tag or by the U. S. grade mark on the product, packing, materials or package. Approval of the use of such certificates, labels, tags, and marks shall be limited to such persons and firms as are applicants for grading or distributors of butter, cheese, eggs, dressed poultry, or dressed domestic rabbits, that have been officially graded, and who use the approved certificates, labels, and other devices solely for such purposes as may be considered proper, ethical, and legal in the advertising and merchandising of the graded products.

55.59 Authorization to use certificates of quality or grade labels may be withdrawn.—The privilege to use certificates of quality, grade labels, grade tags, and approved labels or other packing materials which bear the stamp or grade mark of the official grader or the U. S. grade of the product, and to package products with such may be withdrawn by the Chief of Service for disuse or for unethical, deceptive, fraudulent, illegal, or unauthorized use or failure to comply with the regulations in this part.

55.60 When drawn poultry and drawn rabbits may be graded.—Drawn or eviscerated poultry and domestic rabbits shall not be graded for quality unless the carcasses have been previously inspected and certified for condition and wholesomeness under the Rules and Regulations of the Secretary of Agriculture Governing the Inspection and Certification of Dressed Poultry and Dressed Domestic Rabbits for external condition and of dressed poultry and dressed domestic rabbits and edible products thereof for condition and wholesomeness: *Provided, however,* That drawn poultry or drawn domestic rabbits which have not been previously inspected for condition and wholesomeness may be accepted as complying with contract specifications when offered for delivery to agencies, activities, or institutions where the product is to be consumed and will not be offered for public sale.

MISCELLANEOUS

55.61 Fraud or misrepresentation.—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application, the use of a sampling, grading, regrading, or appeal grading certificate or a certificate of quality or a grade label authorized or approved under the regulations in this part, or the use of any official grading stamp, grade tag, grade mark, or approved label, or any willful violation of the regulations in this part or of the supplementary rules and instructions issued by the Chief of Service, may be deemed sufficient cause

for debarring from any further benefits of the act the person found guilty thereof, after opportunity for hearing has been accorded him, and, pending investigation and hearing, the Chief of Service may, without hearing, direct that such person shall be denied the benefits of the act.

55.62 Interfering with a grader.—Any further benefits of the act may be denied to an applicant who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, assault, or any other improper means, a grader in the performance of his duties.

55.63 Publication.—Publications under the act and the regulations in this part shall be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Agricultural Marketing Service and in such other media as the Chief of Service may approve for the purpose.

55.64 Political activity.—All official samplers, graders, and supervisors of packaging, authorized by appointment or license to issue sampling, or grading certificates or certificates of packaging, are forbidden during the period of their appointment or license to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees and licensees, including temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute ground for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

55.65 Identification.—All official samplers, graders, supervisors of packaging, and limited licensed graders shall have in their possession or the possession of the supervisor, at all times their license or graders' identification cards and shall identify themselves by such cards on request.



Grover B. Hill

Acting Secretary of Agriculture.

INSTRUCTIONS OF THE CHIEF OF THE AGRICULTURAL MARKETING SERVICE

Acting under authority vested in the Chief of the Agricultural Marketing Service, by section 55.3 and other sections of Title 7, Chapter I, Part 55, Code of Federal Regulations (sections 55.1–55.65) the following instructions are hereby issued to be in force and effect on and after January 2, 1942.

Charles K. Ketcher

Chief, Agricultural Marketing Service.

Section 1. Disposition of samples.

Paragraph 1.—Unless the applicant requests the samples to be returned to him at his own expense or to be turned over at the inspection point to his agent or other person designated by him, the samples will be disposed of by the local representative of the Agricultural Marketing Service.

Sec. 2. Offices authorized to pass on applications for appeal gradings.

Par. 1.—Applications for appeal gradings of butter, cheese, eggs, dressed poultry, and dressed domestic rabbits may be passed upon by the persons designated below, provided that no application for appeal grading shall be passed

upon by the person who made the original gradings from which the appeal is taken.

Washington, D. C., and all other points: Roy C. Potts, Rob R. Slocum, and Henry G. F. Hamann.

Boston: N. A. Dakin and Bruce S. Mars.

New York: L. F. Champlin, Lester Kilpatrick, and Bruce S. Mars.

Philadelphia: W. B. S. Woodward and Bruce S. Mars.

Chicago, Dubuque, Duluth, Mason City, Minneapolis, Omaha, St. Louis, and St. Paul: W. J. Shriver, B. W. Kempers, and E. Small.

Seattle: E. R. Johnson and B. J. Ommodt.

San Francisco: F. H. McCampbell, D. D. Moosman, and B. J. Ommodt.

Portland: C. L. Reiser and B. J. Ommodt.

Los Angeles: A. G. Abell, F. L. McKittrick, and B. J. Ommodt.

Sec. 3. Officers authorized to approve stamps, tags, labels, packing materials, or grade marks.

Par. 1.—The Officer in Charge, or Acting in Charge, of the Dairy and Poultry Division in the Agricultural Marketing Service is authorized to approve stamps, tags, labels, packing materials and marks that are used in stamping, tagging, or labeling officially graded products.

Sec. 4. Officers authorized to approve applications for the privilege to use certificates of quality or grade labels.

Par. 1.—The Officer in Charge, or Acting in Charge, of the Dairy and Poultry Division in the Agricultural Marketing Service is authorized to approve applications for the privilege to use certificates of quality, grade labels, and to package products with such certificates and labels.

Sec. 5. When butter possesses satisfactory keeping quality.

Par. 1.—Butter shall be deemed to possess satisfactory keeping quality for packaging under certificates of quality when samples of it, taken by an official sampler or official grader, are kept for a period of seven days in a keeping-quality cabinet at a temperature approximating 70° F., and on neither the fifth nor the seventh day show the development of any putrefactive or other objectionable flavor or odor.

Sec. 6. Improper, unethical, or unauthorized use of certificates of quality, grade labels, grade stamps, etc., must be reported.

Par. 1.—Each official sampler, official grader, limited licensed egg grader, and official supervisor of packaging of butter, cheese, eggs, dressed poultry, or dressed domestic rabbits shall report to the Officer in Charge of the Dairy and Poultry Division in the Agricultural Marketing Service each and every instance of which he has knowledge or information concerning improper, unethical, or unauthorized use made of any grading certificates, certificate of quality, grade stamp, grade label, grade tag, or grade mark by an applicant for grading or the packer or distributor of the graded product, and of any act, method, or practice which might be considered improper, unethical, deceptive, fraudulent, illegal, or unauthorized, or any other act or practice that is in violation or would cause violation of the rules and regulations of the Secretary of Agriculture, or of the instructions issued thereunder and failure to do so will subject such official to discipline.